

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TERRANCE T. POWELL,

Petitioner,

v.

JOHN GAY,

Respondent.

Case No. C07-5046RBL-KLS

ORDER DENYING PLAINTIFF'S  
REQUEST FOR EXTENSION OF  
TIME TO FILE REPLY

This matter is before the Court on petitioner's filing of a request for extension an of time to file a reply to respondent's answer. (Dkt. #22. After reviewing plaintiff's motion, respondent's response thereto and the remaining record, the Court hereby finds and orders as follows:

On May 21, 2007, plaintiff filed a motion requesting an at least 180 day extension of time to file his reply, even though respondent had yet to file his answer. (Dkt. #15). Plaintiff made his request, because he was anticipating being transferred to the Pierce County Jail pending the outcome of being re-sentenced in Pierce County Superior Court pursuant to a recently issued Washington State Court of Appeals decision. Plaintiff stated that while at the Pierce County Jail he would not have access to needed legal resources and materials, and that, even if he was still at his present institution, it was likely he would not have enough time to reply to respondent's answer before he was to be transferred.

On June 7, 2007, petitioner informed the Court that he had been called back to court in the Pierce County Superior Court, although he did not state whether he has been transferred to the Pierce County

1 Jail. (Dkt. #19). On June 20, 2007, the Court stayed petitioner's petition for a period of six months until  
2 December 15, 2007. (Dkt. #20). In the meantime, petitioner was to inform both the Court and respondent  
3 by written filing as soon as his sentencing proceedings in state court were concluded and he was returned  
4 to the custody of the DOC, at which point a new date for petitioner to file his reply would be set.

5 In his current request, which was addressed to the Clerk and filed on December 5, 2007, petitioner  
6 states that he would not be able to meet the six-month deadline set by the Court, and asks for "more time"  
7 or until he "is done with his superior court issues" to meet that deadline. (Dkt. #22). The primary basis  
8 for plaintiff's initial request for a six-month stay was because he anticipated being transferred to the  
9 Pierce County Jail, where he stated he would not have access to needed legal resources and materials.  
10 There is no indication, however, that petitioner actually was transferred there or, even if such a transfer  
11 took place, that he is still there. Indeed, the current mailing address the Court has for petitioner shows he  
12 remains within the Washington State Department of Corrections system at Washington Corrections  
13 Center located in Shelton, Washington.

14 Petitioner, furthermore, does not present any other reasons why his "superior court issues" would  
15 prevent him at this point in time from filing a reply to respondent's answer. In addition, petitioner did not  
16 properly note his request as a motion, and it appears he did not notify respondent of his request by serving  
17 him with a copy thereof. Accordingly, for the foregoing reasons, petitioner's request (Dkt. #20) hereby is  
18 DENIED. As the December 15, 2007 deadline has passed, and petitioner has presented no valid reasons  
19 for extending it, the stay previously imposed by this Court hereby is lifted. Petitioner thus shall file a  
20 reply to respondent's answer by **no later than February 11, 2008**. Respondent shall file a reply thereto,  
21 if any, by **no later than February 16, 2008**. The Clerk shall re-note the petition for consideration on  
22 **February 17, 2008**.

23 The Clerk shall send a copy of this Order to petitioner and counsel for respondent.

24 DATED this 10th day of January, 2008.

25  
26 

27 Karen L. Strombom  
28 United States Magistrate Judge